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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,948	09/08/2003	Kailash C. Vasudeva	PAT 51403A-2	9002

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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT PAPER NUMBER

3677

NOTIFICATION DATE DELIVERY MODE

11/19/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/656,948	<b>Applicant(s)</b> VASUDEVA, KAILASH C.	
	<b>Examiner</b> Ruth C. Rodriguez	<b>Art Unit</b> 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 4-22,28-31 and 91-104 is/are pending in the application.
- 4a) Of the above claim(s) 4-22,28-31 and 97-102 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 91-96,103 and 104 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election Restriction***

1. Claims 97-102 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 25 April 2004.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 22 December 2005 has been considered for this Office Action.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 95 and 96 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to

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which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specifications enable one of ordinary skill in the art to make an exhaust flange having a two body part including a first portion manufactured of sintered powdered metal and a second portion manufactured of a metal other than a sintered powdered metal, however, the specifications lack enablement for a cylindrical recess in one face of one of the first and second portions that receives a cylindrical outer portion provided in the other of the first and second portions by fitting within the cylindrical recess since the specification only provide enablement for fitting a gasket within the recess of flange.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 91-94, 103 and 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (US 6,299,216) in view of Medvick (US 4,792,162).

Thompson discloses an exhaust flange (3,33), for use with a gasket (37), for mounting on the end of a first exhaust pipe for securing to a complementary exhaust flange secured to the end of a second exhaust pipe (Fig. 7). The exhaust flange has a two part body (3,33) including a first portion (3) and a second portion (33). The two-part

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body extends radially outwardly from a central opening for the first exhaust pipe (Fig. 7). Thompson fails to disclose that the first portion is manufactured of sintered powdered metal and that the second portion is manufactured of a metal other than a sintered powdered metal. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first portion is manufactured of sintered powdered metal and that the second portion is manufactured of a metal other than a sintered powdered metal since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Especially, since Medvick teaches that the flanges are manufactured of sintered powdered metal that offers significant reduction in the manufacturing costs and provides a durable structure (C. 7, L. 25-31).

The exhaust flange has an element (recess formed at the ends) shaped to receive an annular sealing gasket (37) (Figs. 8(A) and 8(B)).

The element shaped to receive an annular sealing gasket (37) is a protrusion (defining 41) from the exhaust flange (Fig. 8(C)).

The element shaped to receive an annular sealing gasket (37) is a recess (recess formed at the ends) in the exhaust flange.

An exhaust flange (5a, 9,15 or 5b, 9,15) for mounting on the end of a first exhaust pipe for securing to a complementary exhaust flange secured to the end of a second exhaust pipe (Figs. 2, 4, 5, 6A, 6B, 11). The exhaust flange has a two-part body including a first portion (5A or 5B) and a second portion (9 or 15) integrated together to

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form as a sealing member (Figs. 2, 4, 5, 6A, 6B, 11). The two-part body extends radially outwardly from a central opening for the first exhaust pipe (Figs. 2, 4, 5, 6A, 6B, 11). Thompson fails to disclose that the first portion is manufactured of sintered powdered metal and that the second portion is manufactured of a metal other than a sintered powdered metal. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first portion is manufactured of sintered powdered metal and that the second portion is manufactured of a metal other than a sintered powdered metal since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Especially, since Medvick teaches that the flanges are manufactured of sintered powdered metal that offers significant reduction in the manufacturing costs and provides a durable structure (C. 7, L. 25-31).

One of said first and second portions has a cylindrical recess (receiving 9 or 15) in one face thereof, coaxial with said central opening (Figs. 2, 4, 5, 6A, 6B, 11). The other of said first and second portions has a cylindrical outer portion fitting within said cylindrical recess (Figs. 2, 4, 5, 6A, 6B, 11).

### ***Response to Arguments***

7. Applicant's arguments filed 07 September 2007 have been fully considered but they are not persuasive.

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8. The Applicant argues that the combination of Thompson and Medvick fails to disclose the claimed invention since the combination will not result in a flange having a two part body including a first portion of sintered powdered metal and a second portion of a metal other than sintered powdered metal since Thompson discloses a second part that is an annular main seal 9, a sacrificial "O" ring seal 15 or an annular ring 18 rather than a constituting part of the body of the flange. This argument fails to persuade. The claims only require that the flange has two portions. The annular main seal 9, sacrificial "O" ring seal 15 or annular ring 18 can be considered a second portion of the flange when the two flanges are connected to each other with the annular main seal 9, sacrificial "O" ring seal 15 or annular ring 18 is installed between two flanges and meets the claimed limitations. The claims do not provide any details that will exclude an annular main seal 9, a sacrificial "O" ring seal 15 or an annular ring 18 from being interpreted as the second portion.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez  
Patent Examiner  
Art Unit 3677

/James R. Brittain/  
Primary Examiner  
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rcr  
November 13, 2007